

### **REMARKS**

Applicants respectfully request reconsideration of this Patent Application, particularly in view of the above Amendment and the following remarks. A check for \$84.00 is enclosed as the number of independent claims has increased by one and the total number of claims is less than originally filed. For any underpayment or overpayment, the Assistant Commissioner for Trademarks is authorized to charge or credit Deposit Account 19-3550.

### **Telephone Interview Summary**

Applicants' undersigned attorney thanks the Examiner for his time and comments during a telephone interview on 28 April 2003. The undersigned and the Examiner discussed the claim limitations, particularly Applicants' breathability and extendibility limitations and the correlation therebetween, in view of the prior art. The undersigned and the Examiner further discussed Applicants' claimed film polymer combinations, and Applicants submit the above Amendment in view of the Examiner's comments. No agreement was reached during the telephone interview.

### **Amendment to the Claims**

Applicants have amended independent Claim 24 to include limitations from dependent Claim 29. Claim 29 has been canceled as redundant.

Applicants have amended Claim 30 into independent form including limitations from base Claim 24 and to further describe the recited film. Support for this Amendment can be found at page 24, lines 9-14 of Applicants' Specification.

Applicants have amended dependent Claim 32 to depend from amended independent Claim 30.

Applicants have amended independent Claim 41 to further describe the film component of the laminate, by including limitations of canceled Claim 29.

No new matter has been added to the claims by this Amendment.

### **New Claims**

Applicants have added new Claims 61-63 which depend from amended independent Claim 24. New Claims 61-63 include limitations recited in original Claims 10, 13, and 14.

Applicants have added new Claims 64-76 which depend from amended independent Claim 30. New Claims 64-67 and 73-76 include limitations recited in

original Claims 25-28 and 33-40, respectively. New Claims 68-72 include limitations recited in original Claims 17 and 20-23, respectively.

Applicants have added new independent Claim 77 directed to a garment including the laminate described in amended Claim 30. New Claims 78-83 include limitations recited in original Claims 42-50.

No new matter has been added to the claims by this Amendment.

### **Brief Summary of Applicants' Claimed Invention**

Applicants' claimed invention includes a substantially liquid-impermeable laminate, comprising a film and a nonwoven web, that is extendible in a cross-direction to a stretched width of at least 25% greater than the unstretched width and a garment including the laminate. The laminate has a first water vapor transmission rate (WVTR) of at least 500 grams/m<sup>2</sup>-24 hours coinciding with the unstretched width, and a second greater WVTR when stretched in the cross-direction. The laminate has a second WVTR of at least 225% of the first WVTR and not less than about 4000 grams/m<sup>2</sup>-24 hours, when stretched *to a width that is 25% greater* than the unstretched width. In other words, the high second WVTR is obtained at only stretching the laminate 25% in the cross direction, although the laminate can be

stretched greater than 25% in the cross direction and will have at least the same, higher WVTR at the higher stretching levels.

The film of the laminate has at least one layer including one of the following component combinations: a single-site catalyzed olefin polymer, a Ziegler-Natta catalyzed olefin polymer, and a particulate filler (independent Claims 24 and 41); a lower density olefin polymer having a density of 0.870 grams/cm<sup>3</sup> to less than 0.900 grams/cm<sup>3</sup>, a higher density olefin polymer having a density of about 0.900-0.935 grams/cm<sup>3</sup>, and a particulate filler (independent Claims 30 and 77); or a single-site catalyzed very low density polyethylene, a Ziegler-Natta catalyzed linear low density polyethylene, and a particulate filler (Claim 56). The claimed film component combinations in part provide the claimed laminate cross-direction extendibility and the high breathability at the relatively low 25% cross-direction stretch.

### **Claim Rejections - 35 U.S.C. §102**

Claims 24-32 and 41-50, have been rejected under 35 U.S.C. §102(b) as being anticipated by WO 98/05501.

WO 98/05501 discloses films having increased WVTR's at comparable filler loading and thickness by using a single-site metallocene catalyzed polyethylene. (Page 2, lines 22-28). The disclosed single-site metallocene catalyzed polyethylene

films provide a higher WVTR, particularly “above 100 g/m<sup>2</sup>/day@25°C . . . more preferably above 3000 g/m<sup>2</sup>/day@25°C,” than the conventional Ziegler-Natta catalyzed polymer films and therefore require less stretching. (Page 10, lines 4-19). However, relatively higher cross-directional stretching ratios of 2:1 to 5:1 are still needed for the films of WO 98/05501 to obtain the disclosed higher WVTR’s, particularly those above 3000 g/m<sup>2</sup>/day@25°C. (Page 9, lines 13-19).

Although WO 98/05501 discloses a WVTR of above 3000 g/m<sup>2</sup>/day@25°C that, when taken alone, partially overlaps Applicants’ claimed range “not less than 4000 grams/m<sup>2</sup>-24 hours,” WO 98/05501 discloses the WVTR at a cross-direction stretching ratio of 2:1 to 5:1, which is much higher than Applicants’ 25% cross-directional stretch. Applicants’ claimed invention includes polymer combination films that when stretched 25% in the cross-direction increase in breathability from a first WVTR of at least 500 grams/m<sup>2</sup>-24 hours before cross-directional stretching to a second WVTR of at least 225% of the first, unstretched WVTR and not less than 4000 grams/m<sup>2</sup>-24 hours. In other words, WO 98/05501 discloses a WVTR that partially overlaps Applicants’ claimed WVTR only if the two WVTR’s are compared in a vacuum without consideration of Applicants’ other claim limitations, particularly Applicants’ corresponding stretch limitations. WO 98/05501 does not disclose or suggest Applicants’ claimed laminates including the recited

polymer film combinations that have Applicants' claimed WVTR at Applicants' claimed low cross direction stretch.

In addition, WO 98/05501 does not disclose or suggest laminates having Applicants' claimed WVTR and extendibility in combination with Applicants' following three claimed polymer film combinations: 1) a single-site catalyzed olefin polymer, a Ziegler-Natta catalyzed olefin polymer, and a particulate filler (independent Claims 24 and 41); 2) a lower density olefin polymer having a density of 0.870 grams/cm<sup>3</sup> to less than 0.900 grams/cm<sup>3</sup>, a higher density olefin polymer having a density of about 0.900-0.935 grams/cm<sup>3</sup>, and a particulate filler (independent Claims 30 and 77); and 3) a single-site catalyzed very low density polyethylene, a Ziegler-Natta catalyzed linear low density polyethylene, and a particulate filler (Claim 56).

Applicants' claimed invention is patentable over WO 98/05501 as WO 98/05501 does not disclose or suggest each and every limitation of Applicants' amended independent Claims 24, 30, 41, 56, and 77. Claims 25-29, 31-40 and 42-50, 57-76, and 78-83 depend from one of independent Claims 24, 30, 41, 56, and 77, and are patentable for at least the same reasons as above.

**Claim Rejections - 35 U.S.C. §103**

Claims 24, 36-38, 41-50, and 56 have been rejected under 35 U.S.C. §103(a) as being unpatentable over Kobylivker et al. (U.S. Patent 6,002,064) in view of WO 98/05501.

Kobylivker et al. discloses a stretched-thinned breathable film including a low crystallinity propylene polymer and a particulate filler. (Abstract). Kobylivker et al. discloses the low crystallinity propylene polymer film can include up to 50% of an additional polymer (Column 5, line 59 - Column 6, line 25) but does not disclose or suggest Applicants' three claimed polymer film combinations: 1) a single-site catalyzed olefin polymer, a Ziegler-Natta catalyzed olefin polymer, and a particulate filler (independent Claims 24 and 41); 2) a lower density olefin polymer having a density of 0.870 grams/cm<sup>3</sup> to less than 0.900 grams/cm<sup>3</sup>, a higher density olefin polymer having a density of about 0.900-0.935 grams/cm<sup>3</sup>, and a particulate filler (independent Claims 30 and 77); or 3) a single-site catalyzed very low density polyethylene, a Ziegler-Natta catalyzed linear low density polyethylene, and a particulate filler (Claim 56).

Kobylivker et al. also discloses that the breathability of the film is dependent on, at least in part, film thickness. (Column 7, lines 18-21). The film can

be stretched in the machine direction from about 1.1 to 7.0 times the original length and more preferably 2.5-5.0 times the original length. (Column 7, lines 25-30). Kobylivker et al. thus discloses higher stretching ratios that lead to lower thickness and an increased WVTR. Kobylivker et al. does not disclose or suggest a film or laminate including Applicants' claimed film polymer combinations and having a WVTR of at least 225% of the unstretched WVTR and not less than 4000 grams/m<sup>2</sup>-24 hours at a stretched width in the cross-direction that is 25% greater than the unstretched width in the cross-direction.

For at least the above reasons, Applicants' invention of amended independent Claims 24, 30, 41, 56, and 77 is patentable over Kobylivker et al., alone or in combination with WO 98/05501. Claims 25-29, 31-40 and 42-50, 57-76, and 78-83 depend from one independent Claims 24, 30, 41, 56, and 77, and are patentable for at least the same reasons as above.

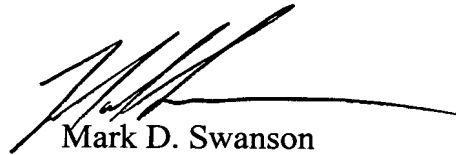
### **Conclusion**

Applicants intend to be fully responsive to the outstanding Office Action. If the Examiner detects any issue which the Examiner believes Applicants have not overcome in this response, Applicants' undersigned attorney requests a telephone interview with the Examiner.



Applicants sincerely believe that this Patent Application is now in condition for allowance and, thus, respectfully request early allowance.

Respectfully submitted,

A handwritten signature in dark ink, appearing to read 'M. Swanson', with a long horizontal flourish extending to the right.

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